

### **Remarks**

This is a response to the office action mailed March 28, 2003. Claims 1-23 were filed in this application. By way of this Response, Applicant amends drawing Figures 2 and 3 and claims 1-3, 5-6, 8, 12-13 and 19. The undersigned appreciates the careful review of the claims by the Examiner and has made the Examiner's suggested changes as set forth in the outstanding office action.

In this first Office Action, the Examiner objects to the drawings as failing to comply with 37 C.F.R. 1.84(p)(5). The Examiner further objects to claims 1-3, 5, 6, 8, 12, 13 and 19, requiring correction of minor informalities. The Examiner rejects claims 1, 3-7, 11-12 and 15-18 under 35 U.S.C. §103(a) as being unpatentable over PCT Publication No. 98/50258 to Gal et al. (hereinafter "Gal") in view of PCT Publication No. 94/08120 to Lu et al. (hereinafter "Lu") and U.S. Patent No. 4,471,274, issued to Ross et al. (hereinafter "Ross").

The Examiner further rejects claims 2, 8-10, 13-14 and 19-21 under 35 U.S.C. §103(a) as being unpatentable over Gal in view of Lu and Ross and further in view of U.S. Patent No. 6,157,024, issued to Chapdelaine et al. (hereinafter "Chapdelaine"). Finally, the Examiner rejects claims 22 and 23 under 35 U.S.C. §103(a) as being unpatentable over Gal in view of Lu, Ross, Chapdelaine and further in view of U.S. Patent No. 5,142,152, issued to Boiucaner (hereinafter "Boiucaner").

Applicant has amended the application in view of the Examiner's Office Action and believes that the application is in condition for allowance. Reconsideration and reexamination of the application as amended is respectfully requested.

**A. Objections To The Drawings Under 37 C.F.R. § 1.84(p)(5)**

The Examiner objects to Figures 2 and 3 as failing to comply with 37 C.F.R. 1.84(p)(5). Applicant corrects Figures 2 and 3 as suggested by the Examiner and submits a replacement sheet containing Figures 1-3 for examination. The amendments to Figures 2 and 3 are fully supported by the specification and claims as filed and do not enter any new matter into this application.

**B. Objections To The Claims**

The Examiner objects to claims 1-3, 5-6, 8, 12-13 and 19 due to a number of minor informalities. Applicant amends the claims to remove the remaining informalities in compliance with the Examiner's directions and believe the claims, as amended, are in condition for allowance.

**C. Rejections Under 35 U.S.C. § 103(a)**

The Examiner rejects claims 1, 3-7, 11-12 and 15-18 under 35 U.S.C. §103(a) as being unpatentable over Gal in view of Lu and Ross. The Examiner further rejects claims 2, 8-10, 13-14 and 19-21 under 35 U.S.C. §103(a) as being unpatentable over Gal in view of Lu and Ross and further in view of Chapdelaine. Finally, the Examiner rejects claims 22 and 23 under 35 U.S.C. §103(a) as being unpatentable over Gal in view of Lu, Ross, Chapdelaine and further in view of Boiucaner. Applicant has reviewed the references as applied by the Examiner and respectfully disagrees with these assertions.

None of the references applied by the Examiner would motivate one of ordinary skill in the art to obviate Applicant's claimed invention. The Examiner's proposed combination of references does not teach nor suggest all of the claim limitations as set forth in the claims. MPEP §2143.01 details the basic requirements necessary to establish a prima facie case of obviousness:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either if the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.

The references applied by the Examiner do not obviate Applicant's claims, either individually or in combination. As such, Applicant respectfully request reconsideration of the rejection of claims 1-23 as presented in this Response.

"A statement that modifications of the prior art to meet the claimed invention would have been 'well within the ordinary skill of the art' at the time the claimed invention was made' because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. " MPEP 2143.01 A patent claim is not a road map for the Examiner to search out each patent limitation and combine them in an obviousness rejection. Motivation must be found to combine references. No motivation can be found to combine the Gal, Lu and Ross references in order to determine the present invention is obvious to one of ordinary skill in the art.

Gal discloses a motor vehicle sensor arrangement for detecting the presence of an object adjacent a vehicle opening or air bag system. The similarities between Gal and Applicant's claimed invention end there. Gal does not disclose a motor control system for automatically closing a vehicle door as claimed by Applicant. Gal suggests generating an alarm indicator if an obstruction is detected. It is unclear how the Examiner can suggest that it would be obvious to couple the Gal sensor arrangement to a non-existent and undisclosed motor control system or generate an undisclosed motor control signal to avoid an obstruction pinch condition.

The Lu and Ross references are significantly different from the technology disclosed in Gal. “The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination.” See MPEP §2143.01 citing *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Lu discloses an obstruction detection system for monitoring pinch conditions between a window and window frame. No suggestion exists in Lu to motivate one of ordinary skill in the art to integrate a motor control system into the Gal disclosed arrangement. In fact, Gal teaches away from such an arrangement, specifically reciting only that an audio or visual warning is generated in an obstructed in detected in the “protected” area. Thus, it is improbable to combine Gal and Lu to obviate Applicant’s claimed invention.

Ross discloses an elevator door control system utilizing a speed control mechanism to detect changes in load condition during the door closure operation and generate a motor control signal to open the doors if such a condition exists. It is abundantly clear that one of ordinary skill in the art would not combine the Ross elevator door control rotational speed mechanism with the optoelectronic detection arrangement disclosed in Gal and Lu to obviate Applicant’s claimed invention.

The Gal/Lu/Ross combination clearly fails to obviate Applicant’s invention. No teaching or suggestion exists to motivate one of ordinary skill in the art to combine the three patentably distinct references cited by the Examiner to obviate Applicant’s claimed invention. MPEP 2143.01 specifically states that obviousness may only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either **explicitly or implicitly** in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

It is clear that no explicit or implicit motivation exists to combine the references in such a manner to obviate Applicant’s claimed invention. Applicant respectfully requests reconsideration of the claims as presented in this Office Action as being in condition for

allowance. Further, Applicant respectfully suggests that dependent claims 2-11 and 13-18 are also in condition for allowance as being dependent upon allowable subject matter presented in claims 1 and 12.

Referring now to the Examiner's rejection of claims 2, 8-10, 13, 14 and 19-23 under 35 U.S.C. §103(a), Applicant respectfully asserts that claims 2, 8-10, 13 and 14 depend from allowable independent claims 1 and 12 and therefore are nonobvious over the Gal/Lu/Ross/Chapdelaine combination for at least the reasons stated above with reference to claims 1 and 12. With respect to independent method claim 19, the Examiner's assertion of the Gal/Lu/Ross combination with Chapdelaine is flawed in view of the arguments presented above.

None of the references asserted by the Examiner, including Chapdelaine, will motivate one of ordinary skill in the art to obviate Applicant's claimed invention. "The level of skill in the art cannot be relied upon to provide the suggestion to combine references." See MPEP §2143.01 citing *Al-Site Corp. v. VSI Int'l Inc.*, 174 F3rd 1308, 50 USPQ 2d 1161(Fed Cir. 1999). Chapdelaine, similar to Lu, discloses a **window** and **window frame** monitoring system for detecting the presence of an obstruction between the window and window frame. Although Chapdelaine does disclose applying reflective materials adjacent the window frame opening to reflect infrared radiation emitted from a light emitting diode, the addition of Chapdelaine to the Gal/Lu/Ross combination does not obviate Applicant's claimed invention.

Applicant respectfully asserts that a thorough reading of each of the Gal, Lu, Ross and Chapdelaine, both individually and in combination, would not motivate one of ordinary skill in the art to combine these references to render Applicant's claimed invention. As such, Applicant respectfully requests reconsideration of the rejection of independent claim 19. Further, since claims 20-23 depend from independent claim 19, Applicant believes these claims are allowable for at least the reasons stated above with reference to independent claim 19 above.

**D. Conclusion**

Applicant has made a genuine effort to respond to each of the Examiner's objections and rejections in advancing the prosecution of this case. Applicant believes that all formal and substantive requirements for patentability have been met and that this case is in condition for allowance, which action is respectfully requested. If any additional issues need to be resolved, the Examiner is requested to telephone the undersigned at his convenience.

Respectfully submitted,

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